

II. REMARKS/ARGUMENTS

Interview

Applicant would like to thank Examiner Sherr for her helpful suggestions during a telephonic interview held on November 14, 2006. The substance of the interview is reiterated below to satisfy the requirements of 37 C.F.R. § 1.133(b).

Prior to the interview, applicant submitted a proposed amendment to Claim 10 and supporting remarks to the examiner via a fax transmitted November 8, 2006.

During the interview the proposed amendments to Claim 10 were discussed, the amendments reciting in part a list of stolen and missing merchandise comprising a record of identifiers of RFID tags corresponding to unsold merchandise no longer in the store's inventory record. The examiner agreed that the Chung reference (U.S. Pat. App. Pub. No. 2003/0209601) fails to teach the proposed amendments to the claim, and indicated that favorable consideration will be given the proposed amendment pending further review of the relevant art.

35 USC 103(a) Rejections

Claims 1, 3-6 and 8-10 stand rejected under 35 USC 103(a) as being unpatentable over U.S. Pat. App. Pub. No. 2003/0209601 filed by Chung ("Chung"). Applicant has canceled Claims 1, 3-6, 8 and 9, amended Claim 10 and added new Claims 11-15.

Claim 10 has been amended to more clearly distinguish over the Chung reference. The amendments are supported by language in the specification and do not add new matter to the specification.

With regard to Claim 10, applicant has considered the Chung reference in its entirety as requested by the examiner. However, applicant notes that the most relevant disclosure by Chung is found in paragraphs 0069-0080, relating to a retail sales environment. In particular, Chung teaches coding of RFID tags as "purchased" to prevent false detection by an anti-theft alarm as articles are taken from the store (see, e.g., para. 0075). In contrast, applicant's claimed invention is both a theft deterrent and merchandise recovery system that includes a list of stolen and missing merchandise comprising a record of the identifiers of RFID tags corresponding to unsold merchandise no longer in the store's inventory record. As disclosed by applicant (see, e.g., applicant's

specification para. 0030), this list may be utilized in conjunction with RFID scanning equipment to automatically detect and positively identify (via the RFID identifier) stolen or missing merchandise, thus aiding in the return of merchandise. The Chung reference fails to disclose or suggest the use of identifying information residing on RFID tags in conjunction with a list of stolen and missing merchandise in the manner of applicant's amended Claim 10. Although Chung does disclose generating an inventory list of items having RFID tags (see, e.g., paras. 0072-0073), there is no teaching or suggestion by Chung to generate and maintain a separate list comprising the identifiers of RFID tags corresponding to unsold merchandise no longer in the store's inventory record. Although the system disclosed by Chung might set off an anti-theft alarm if the merchandise is subsequently brought back into the store, Chung fails to teach or suggest a way for the store to positively identify the merchandise as taken from the store's inventory. Accordingly, applicant submits that Claim 10 as amended is neither anticipated nor rendered obvious by Chung.

New Claims 11-15 depend from Claim 10. Each of the added claims are supported by the specification and do not add new subject matter to the application. Claims 11-15 each add limitations that further distinguish the claimed invention from the prior art. As such, applicant submits that Claims 11-15 are also allowable.

Applicant understands that, since the total number of claims remains less than twenty and the total number of independent claims is unchanged, no additional claims fees are due.

III. CONCLUSION

For the reasons discussed above, applicant submits that amended Claim 10 and new Claims 11-15 of the pending application are patentable over all the prior art of record and that the application is now in form for allowance. Furthermore, applicant submits that an additional search by the examiner appears to be unnecessary, as the most relevant art has apparently been uncovered in applicant's information disclosure statement and the examiner's prior searches.

It is believed that the application is now in form for allowance and favorable action by the examiner is requested. The examiner is requested to contact applicant's representative at the telephone number below if any other issues remain.

Respectfully Submitted,

/Michael@Forhan/

Michael A. Forhan, Reg. No. 46,706

Eley Law Firm Co.

Attorneys at Law

7870 Olentangy River Road

Suite 311

Columbus, Ohio 43235

Telephone (614) 825-3539

Facsimile (614) 825-9590

Email: mforhan@eyley.com